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**BROADBAND FIBER NETWORK
CONSTRUCTION AND OPERATION
SERVICES AGREEMENT**

*By and between
the Town of Monterey, Massachusetts
and Fiber Connect, LLC*

Agreement made this 23 day of December, 2020 by and between the Town of Monterey, a municipal corporation with an address of 435 Main Road, Monterey, Berkshire County, Massachusetts ("Town") and Fiber Connect LLC a Massachusetts Limited Liability Company with a business address of 445 Main Road, Monterey, MA, 01245 ("Owner Operator" or "Fiber Connect").

Whereas, Fiber Connect was selected by the Town pursuant to a request for proposal process for the construction and operation of a network serving the Town of Monterey (the "Network"); and

Whereas, the Town wishes to procure Network construction and operator services through Owner Operator; and

Whereas, Owner Operator agrees to construct the Network and to provide certain Network operator services to the Town;

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions hereinafter set forth, and for other good and valuable consideration the adequacy and receipt of which is hereby acknowledged, it is AGREED:

1. DEFINITIONS

"Agreement" means this Agreement and any and all Attachments hereto and amendments to which the Parties may agree from time to time and which reference this Agreement.

"Internet Services" means the services provided to Subscribers by Owner-Operator, including, but not limited to, data transmission service, IP transport, internet access service, email and telephone services, regardless of technology used.

"Coverage Area" means an extension of Fiber Connect's existing network in Monterey such that all residences in the Town will have access to the network, meaning that the completed network will "pass" 100% of residences. Any exceptions to 100% coverage are specified in writing in Attachment E. Roads in Monterey where high-speed fiber optic network access is not currently available ("Unserved Area") are listed in Attachment A; these include both public and private roads and both aerial and underground utility service areas.

"Customer Premise Equipment (CPE)" means the Owner Operator owned equipment installed at a Subscriber's location that connects the Subscriber edge to the Network.

"Middle Mile Network" means the network infrastructure that connects Owner-Operator's local network in the Town to other network service providers, major telecommunications carriers, and the greater Internet.

"Network" means the network constructed, operated, owned and maintained by Owner-Operator, including fiber optic cable, conduit, routers, switches, optical equipment, wireless equipment, and associated network facilities, located within the town of Monterey.

"Outage" means a significant degradation in the ability of a Subscriber to establish and maintain a channel of access to the Internet.

"Service Credit" means a dollar credit on a Subscriber's next monthly bill from Service Provider.

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"Subscriber" means the end-user of Internet Services provided by the Owner-Operator.

2. REPRESENTATIONS AND WARRANTIES

By execution of this Agreement, each Party represents and warrants to the other that: (a) the Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and is in good standing and authorized to conduct business in the Commonwealth of Massachusetts; (b) the Party has full right and authority to enter into and perform this Agreement in accordance with the terms hereof and thereof; (c) the Party's execution, delivery, and performance of this Agreement will not conflict with, violate or result in a breach of (i) any law, regulation, order, writ, injunction, decree, determination or award of any governmental authority or any arbitrator, applicable to such Party, (ii) any of the terms, conditions or provisions of its charter, bylaws, or other governing documents of such Party, (iii) any material agreement to which it is a party, or (iv) any instrument to which such Party is or may be bound onto which any of its material properties or assets is subject; (d) the Party's execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action; (e) that the signatories for such Party are authorized to sign this Agreement; (f) there are no actions, suits, proceedings or investigations pending, or to the knowledge of the Party, threatened against or affecting the Party or any of its properties, assets or businesses in any court or before or by any governmental authority that could, if adversely determined, reasonably be expected to have a material adverse effect on the Party's ability to perform its obligations under this Agreement; (g) the Party has not received any currently effective notice of any material default; and (h) the Party has not previously been, and is not currently, debarred, suspended, or proposed for debarment, declared ineligible, voluntarily excluded from transactions by any federal or state department or agency, or subject to any inquiry, investigation, or proceeding regarding the foregoing.

3. SCOPE OF SERVICES AND RESPONSIBILITIES OF THE PARTIES

Fiber Connect's response dated January 7, 2019 to the Town of Monterey's Request for Proposals dated November 7, 2018 as submitted by Fiber Connect LLC is incorporated into and made a part of this Agreement by reference.

In the event of any inconsistency between the terms of this Agreement and any other document executed in connection herewith, including without limitation the response to the said proposal submitted by Fiber Connect, the terms of this Agreement shall be final and conclusive on the Parties and any other agreements oral or written shall be void.

3.1 Construction. Fiber Connect shall be responsible for all aspects of network project management, design and engineering, utility pole licensing, make-ready assessment and permitting, fiber optic cable infrastructure buildout, testing, quality assurance, and implementation in the Coverage Area.

3.2 Network Architecture/Topology/Coverage Area. The Network will be an extension of Fiber Connect's existing network in the Town. As such, all network construction under this agreement shall be fully compatible and interoperable with the existing network. The Network must be expandable to allow for increased capacity and to accommodate advances in technology as may reasonably be expected to become available over the life of the Network (at least 10 years). This means, at minimum, a sufficient number of spare fiber strands in the backbone and distribution routes, as well as enough expansion slots in electronics cabinets to accommodate expansion cards for future subscribers. More particularly, the parties agree as follows:

3.2.a. Fiber Connect will build a 100% Fiber to the Premise (FTTP) network based on industry standard Gigabit Passive Optical Network (GPON and NG2PON / XPON) technologies delivered directly to the subscriber. All fiber deployment shall be "fiber rich" for future growth and needs. Fiber Connect will plan for future growth by adding fiber slack coils strategically throughout the network. Fiber capacity shall be designed to accommodate Active Ethernet for those subscribers who demand a dedicated network pathway. Based on a GPON design, the core fiber distribution infrastructure will have approximately 87% over-capacity for special needs and growth. Adequate fiber strands are also designed in for alternative uses such as

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dark fiber leases, dark services such as direct Point-To-Point demands, e.g. interconnection of municipal buildings. Fiber Connect will incrementally upgrade the electronics to 10gPON and beyond as subscriber demands exceed GPON standards and will be able to do so in tandem with existing GPON systems. With the 87% available fiber capacity, FIBER CONNECT has the capabilities to bring a 10gPON online in parallel. Based on current next generation and speculated next generation technologies, Fiber Connect warrants that the network designs can accommodate those needs. If and when infrastructure expansion may be needed beyond what is specified in this paragraph to accommodate growth or special needs, Owner-Operator commits to upgrading such infrastructure at their own expense and not through extra charges to the subscribers to be served.

3.2.b. With the currently available industry standard technologies, FIBER CONNECT's infrastructure will support GPON at 2.5g down and 1g up per Optical Line Terminal (OLT) port. The system is designed with connectorization and splicing to accommodate XPON technologies currently at 10g down and 10g up. The technologies can co-exist on the same physical fibers and XPON can be deployed at any time as needs arise. In an Active Ethernet configuration, the current technologies will allow for up to 10g symmetrical service capacity per fiber strand. Fiber splices and connectorization will be specified to accommodate up to, but not limited to, 1625nm. All connectorization will be SC/APC or LC/APC.

3.2.c. All equipment configurations are maintained current and rapidly transferable via central configuration management to any piece of replacement hardware to accommodate as minimal down time as possible.

3.2.d. Physical infrastructure damage will be automatically routed around whenever possible. Work-around and permanent repair of damage will be addressed with extreme expedience.

3.2.e. Roads in Town where high-speed fiber optic network access is not currently available ("Unserved Area") are listed in Attachment A; these include both public and private roads and both aerial and underground utility service areas. This agreement contemplates an extension of Fiber Connect's existing network in Town such that all residences in the Town, with the exception of properties specifically excluded and listed in Attachment E, will have access to the network. Other than Attachment E properties, exceptions to 100% coverage will be allowed only if buildout to a specific location is infeasible. For purposes of this paragraph, "infeasible" shall mean that construction at said location requires blasting, compound drilling, or other aggressive technique, or the inability to obtain proper public or private permissions, easements, permits, or otherwise, that gives rise to extraordinary risk of consequential damage to underground utilities or nearby structures, and for which there is no reasonable alternative method of construction or work-around. It is the responsibility of Fiber Connect to obtain required permissions, easement, permits and the like from property owners and/or relevant government authorities, when and where required. If requested, the Town will assist Fiber Connect in obtaining such permissions, easements, and permits in any reasonable way that is within the authority of the Town. Fiber Connect hereby affirms its intention to exercise any and all reasonable measures to achieve 100% coverage of all areas except those excluded in Attachment E.

3.2.f. The Network shall connect to and provide subscriber access to the public, world-wide Internet via the MassBroadband 123 Middle Mile Network and/or via other backhaul networks without restriction.

3.3. Standards and Compliance. The Network design and its construction shall adhere to all current and generally accepted technical standards, building codes, construction practices, and other regulations, specifications, and standards as may apply in the broadband networking industry. In addition, all federal, state, and local laws, regulations, and codes applicable to the Network, its construction, and its operation and services must be observed.

3.4. Utility Pole Placement. On any roadway, whether public or private, where Fiber Connect proposes to install its own utility pole(s), Fiber Connect shall first inform residents on that roadway of

the planned locus of placement and offer residents the opportunity to propose reasonable adjustments to the planned placement; Fiber Connect shall make a good faith effort to accommodate any such reasonable adjustments. Additionally, for utility pole installation along any public road or right of way, Fiber Connect shall apply for a Grant of Location from the Town.

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3.5. Project Schedule. The project schedule requires final completion of the Network and "light up" of all subscribers within twelve (12) months of Make-Ready completion for each utility pole license application set on a rolling basis. Failure to adhere to the schedule as agreed between the parties, may result in the Town exercising any or all of its available legal and or contractual remedies including, but not limited to remedies specified under this Agreement and the Performance Bond required under Section 7.5 herein. Construction, as defined in section 3.1 herein shall commence within thirty (30) days of execution of this agreement and conditions in Attachment B have been met with approval by the MBI.

4. PROJECT CONSTRUCTION COSTS AND PAYMENTS

4.1. Massachusetts Technology Collaborative/Massachusetts Broadband Institute Requirements.

Obtaining the state grant allocation as specified in the MBI agreement under the MassTech/MBI Flexible Grant Program for Innovative Approaches to Provide Broadband Service to Unserved Towns in Western Massachusetts is a material requirement of this project. Fiber Connect agrees to fully comply with all MassTech/MBI requirements and timely submit all required documentation to MassTech/MBI as may be required so as to assure overall project compliance. Attachment B is a partial statement of MBI requirements, and the provisions of this paragraph shall apply to any additional requirements that MassTech/MBI may impose on Fiber Connect. No default will exist if Fiber Connect cures any written notice of default it receives within thirty (30) days of receipt.

4.2. Total Project Costs. Fiber Connect shall enter into a separate Grant Award Agreement with Massachusetts Technology Collaborative/Massachusetts Broadband Institute that shall specify payment amounts, payment schedules, and other terms and conditions. Fiber Connect hereby agrees to accept such payments under the terms of that agreement as full and complete satisfaction of all financial obligations for construction services contemplated herein. Any costs in excess of such payments shall be borne by Fiber Connect, and the Town shall have no obligation to make up any difference, and the Town shall bear no financial responsibility for any costs or payment(s) to Fiber Connect for any construction or services under this agreement.

4.3. No Additional Charges. Fiber Connect's original proposal quoted extra charges for optional underground installation of network distribution cables in areas with existing underground utilities. The Town declines optional underground installation and will bear no financial responsibility for additional charges.

5. INTERNET SERVICES AND NETWORK OPERATION

5.1. Contract Term. This Agreement shall be in full force and effect for a term of Ten (10) Years from the date of execution. This Agreement shall be automatically self-renewing thereafter for subsequent terms of One (1) Year unless terminated by either party on Ninety (90) days' written notice before the end of a term.

5.2. Owner-Operator Responsibilities. During the term of this Agreement, Owner-Operator will be responsible for all aspects of Network and Network Operation Center (NOC) operation, network maintenance and repair, emergency response, subscriber connection (both during and post-construction), customer service and support, billing, and all other functions associated with providing reliable high-speed broadband network services to business and residential customers.

5.3. Service Offerings. Fiber Connect will provide unlimited (no data caps) high-speed fiber-to-the-premise broadband service at 1GBps "best use" download / 250+Mbps "best use" upload for residential customers and 1GBps "best use" download / 500+Mbps "best use" upload for business customers. Fiber Connect will provide subscribers the option for Voice Over Internet Protocol (VOIP)

telephone service, which includes but is not limited to such features as voicemail, caller ID, three-way calling, call forwarding, call blocking, voicemail-to-email, and follow-me ring.

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5.4. Reliability and Availability. Fiber Connect will assure an average monthly availability of 99.9% or better except where outages are reasonably beyond its control such as weather-related damage to cable infrastructure, backhaul network outages, etc. If reasonably possible, Fiber Connect will provide same-day emergency repair service for major infrastructure outages.

5.5. Customer Premise Installation/Activation Charges. Fiber Connect shall provide standard aerial drops (fiber optic cable from the closest utility pole to the dwelling) up to one thousand (1,000) feet at no charge so long as there is an unobstructed path. Longer aerial drops, installations requiring special routing or tree trimming/removal, or underground drops may incur additional charges. In addition, Fiber Connect may charge a one-time setup/installation/activation fee at their published rates. However, notwithstanding the published rates, as a special accommodation under this agreement, Fiber Connect shall offer a fifty percent (50%) promotional discount to a) all Monterey residents regardless of location within the Town who sign up within six (6) months of the effective date of this Agreement and b) to any residents in the Unserved Area who sign up prior to construction passing their homes even if such construction takes place after six months from the effective date of this contract.

5.6. Subscriber Pricing and Contract Terms. The standard Fiber Connect subscriber agreement and rate card are incorporated by reference herein and are included in Attachment C, as may be amended from time to time.

5.7. Low-Income Subscriber Pricing Subsidy. Eligible low-income subscribers will pay 50% of standard installation charges AND monthly service charges. Low-income subscribers must re-qualify annually. Eligibility will be based on standard government guidelines, and subscriber eligibility will be verified by a third party to be determined by agreement between the Town and Fiber Connect within six months of the effective date of this Agreement.

5.8. Subscriber Privacy and Data Security. The published Fiber Connect Data Security and Privacy Policy is incorporated by reference herein and is included in Attachment D.


5.9. Right to Terminate Service to Subscribers. Owner-Operator, at its sole discretion, may terminate service to a Subscriber due to nonpayment of Service Provider invoices. In doing so, Owner-Operator will comply with all applicable state and federal laws and regulations.

5.10. Subscriber Remedies. Subscribers will have access to Owner-Operator's 24/7/365 Network Operations Center for resolution of technical issues and trouble reports. Subscribers will also have access to a Customer Care team during normal work hours for resolution of billing and other consumer issues.

5.11. Town Disclaimer of Network Responsibilities. The Town will neither own nor control the Network, other than exercising its lawful responsibility to ensure compliance with applicable laws, regulations, codes, and issuing Town permits as may be required. Nor will the Town oversee or in any way be involved in operation or maintenance of the Network. All Internet service relationships shall be between Owner-Operator and its individual residential or business customers and not between Owner-Operator and the Town, except in the case where the Town is a subscriber to Owner-Operator's Internet services. Owner-Operator shall be fully responsible for the proposed Network and shall assume all risks related to its design, construction, implementation, and continuing operations, including financial risks. Operation of the Network must be financially self-sustaining, with no ongoing financial commitment from the Town beyond what is agreed to in this Agreement.

6. SECURITY/TOWN PROTECTION

6.1. Business Failure/Termination/Breach of Contract. For the term of this Agreement and any extensions hereto, if any of the following events occur:

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- The inability of Fiber Connect LLC to maintain the network or be current with its creditors unless disputed in good faith by Fiber Connect LLC.
 - Fiber Connect's breach of a material term of this Agreement which is not cured within 45 days of written notice. Material terms of this Agreement include, but are not limited to, the provision of reliable, uninterrupted Internet service with average monthly availability of 99.9% or better except where outages are reasonably beyond its control such as weather-related damage to cable infrastructure, backhaul network outages, etc.
 - Bankruptcy filing by Fiber Connect or its Creditors which is not discharged with 180 days.

Then the Town shall have the following rights, but not the duty, to:

6.1.a. Buy out Fiber Connect's Monterey-related assets at a price determined by i) independent valuation of those assets, ii) minus the amount of Town payment to Fiber Connect including the MBI state grant, iii) the result further discounted to account for bankruptcy/termination.

6.1.b. So as to ensure uninterrupted service for subscribers, immediately transfer operation of the network to a Backup Operator of the Town's choosing under a pre-negotiated agreement (the terms of which Fiber Connect shall agree to in writing and which shall be incorporated into this Agreement as an amendment when executed). The back-up operator will sign a non-disclosure agreement subject to Massachusetts General Laws, upon terms reasonably acceptable to Fiber Connect. Fiber Connect further agrees to cooperate and exchange information at least every six (6) months with the Town's designated Backup Operator as may be needed to ensure Backup Operator's readiness and preparedness to take over operations in case of any of the aforementioned events. The information provided by Fiber Connect will be limited to the data set which will permit the back-up operator to operate the network. The back-up operator and Fiber Connect will enter into an agreement which will detail the data set and other information necessary for continuity of operations.

6.1.c. Subsequently choose either to maintain ownership or to sell the network to the same or other established Internet service operator.

6.2. Proposed Sale/Merger/Transfer of Fiber Connect. For a period of ten years from the effective date of this contract, if there shall be a proposed merger, sale, or transfer of Fiber Connect LLC's assets and interest in the Network as defined herein, then such merger, sale, or approval shall require approval from the Town. The approval may be denied if in the sole judgment of the Town, the proposed successor entity fails to demonstrate reasonable technical, business, and financial qualifications at least equal to those of Fiber Connect, and the Town shall provide to Fiber Connect a detailed letter describing the reasons for its denial. The Town shall have thirty (30) days from the date of written notice of the proposed merger, sale, or transfer in which to exercise its right of approval. Failure of the Town to respond within thirty (30) days shall be deemed approval on the part of the Town and will authorize Fiber Connect to proceed with the merger, sale, or transfer. Fiber Connect irrevocably agrees that any successor entity, if allowed by Town, shall be bound by same terms as contained in this Agreement and any amendments hereto between Fiber Connect and the Town. Absent any breach of contractual duty Fiber Connect will be discharged from any liability resulting after the transfer of the Network.

6.3. Security Agreement and Lien. At the time of the execution of this Agreement, the Town will require the execution of a Security Agreement and UCC filing of Security Interest in certain Business Assets of Owner Operator for a period of ten (10) years from the effective date of this contract. Such Security Agreement shall be upon terms and conditions mutually acceptable to the parties in the exercise of their reasonable business judgment. Owner Operator will grant the Town a first priority security interest in all existing and after-acquired tangible and intangible assets that specifically and exclusively relate to and are required for ongoing operation of the network in Monterey so as to ensure continuity of service to Monterey subscribers in the event of any material Owner Operator default under this Agreement or the Security Agreement after the expiration of applicable cure periods, business termination, or impending cessation of operations for any other reason. Such assets include, but are not limited to, all physical network infrastructure, cable plant, CPE, and head-end/

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routing equipment located in the Town of Monterey; other equipment wherever located that specifically and exclusively relates to or is required for ongoing operation of the Monterey network; documentation and records relating to Monterey network operations such as schematics, maps, operations documents and manuals, customer records and account information as pertains to Monterey subscribers, agreements with upstream providers to the extent the same are assignable; and any other assets and materials that are reasonably required to effect transfer and facilitation of ongoing network operations in Monterey. Owner Operator will provide to the Town no later than sixty (60) days after execution of the Security Agreement date-stamped copies of UCC financing statements filed with the Secretary of the Commonwealth of Massachusetts to perfect such security interest. Owner-Operator shall diligently and promptly file continuation statements for each UCC financing statement required hereunder so as to maintain the perfection and priority thereof until all obligations of the Provider under this Grant Agreement are satisfied. The Provider shall promptly furnish to the Town date-stamped copies thereof.

The term "Property," as used in the Security Agreement and UCC filing, shall mean the assets described in the preceding paragraph, now or hereafter located in the Town as part of the Network or as support to the Network as more particularly described herein, together with all rights now or hereafter existing, belonging, pertaining or appurtenant thereto, to the full extent the same are assignable by the Owner-Operator.

6.4. No Disposition of Property. Other than replacement of equipment or other actions taken in the ordinary course of business, Owner Operator shall not effect, cause, or implement any disposition of Property (as defined in section 6.3 above) that shall materially impair or diminish the Town's rights and security interest therein, including but not limited to transfer, sale, assignment, lease, license or other disposition of any part of the Property, and Owner Operator shall not grant or permit any other claim, lien, security interest, or other encumbrance to be created in or on the Property, nor take any action that would change the nature of the Property or its availability to the Town as the secured party without the Secured Party's prior written approval, which shall not be unreasonably withheld or delayed.

7. INSURANCE AND INDEMNIFICATION

7.1. Insurance Coverage. Owner-Operator shall, at all times during the term of this Agreement, maintain Insurance in full force and effect. All such insurance shall be by insurers and for policy limits acceptable to the Town and, before commencement of work hereunder, Owner-Operator agrees to furnish the Town with Certificates of Insurance or other evidence satisfactory to the Town that such insurance has been procured and is in force. The insurance policy or policies shall contain a provision that in the event of cancellation or material change in the policy affecting the certificate holder, thirty (30) days prior written notice will be given to the certificate holder. The Town shall be named as an Additional Insured under all liability and automobile insurance with a waiver of subrogation in favor of the Town. The general liability insurance policy must contain a broad form general liability endorsement and waiver of subrogation in favor of the Town.

7.2. Indemnification by Owner-Operator. Owner-Operator shall indemnify and hold harmless the Town from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages and any and all claims, demands and liabilities whatsoever of every name and nature both in law and in equity on account of injury to person or property, loss of life due to the gross negligence or willful and wanton conduct of Owner-Operator or failure to perform resulting from Owner-Operator's conduct or omissions or failure to perform its responsibilities, as applicable, pursuant to this Agreement, or falsely or knowingly making a materially inaccurate certification or representation under this or any agreement relating to the Network.

7.3. Indemnification by Town. The Town shall indemnify Owner-Operator from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages and any and all claims, demands and liabilities whatsoever of every name and nature both in law and in equity on account of injury to person or property or loss of life resulting from breach of the Town's responsibilities, as applicable, pursuant to this Agreement, but only to the extent that Town would otherwise be liable pursuant to the Massachusetts Tort Claims Act, M.G.L. c. 258. In addition, the

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Town will indemnify Owner Operator for any losses suffered by Owner Operator under Section 3(h) of that certain Grant Agreement between Massachusetts Technology Park Corporation and Owner Operator (the "Grant Agreement") resulting from the Town's knowingly making a materially inaccurate certification or representation under the Grant Agreement.

7.4. Non-Waiver. By entering into this Agreement, the parties have not waived any governmental immunity or limitation of damages which may be extended to them by operation of law.

7.5. Performance Bond. From the effective date of the Agreement until completion of the buildout of the Network, Fiber Connect shall either deposit \$50,000 in a bank savings account with Monterey as a secured party or obtain and pay for performance bond in the amount of Fifty Dollars (\$50,000). Upon completion of construction, the amount of the deposit or bond shall be reduced to Fifteen Thousand Dollars (\$15,000). The deposit or bond shall be forfeited on proof of a material breach of the Agreement, including but not limited to failure to perform in accordance with the Project Schedule as defined elsewhere in this Agreement, which is not cured within any applicable cure period.

8. FORCE MAJEURE

8.1. Force Majeure Events. Notwithstanding any other provision of this Agreement, no Party shall be liable for any failure or delay in performing its obligation, or for any loss or damage, resulting from any event or circumstance beyond the reasonable control of the Party, including but not limited to an earthquake, hurricane, fire, flood, lightning, sinkhole or other forces of nature, acts of war, terrorism or civil unrest, strikes, lockouts or other labor unrest, or legal order, government action or application of laws, regulations or codes ("Force Majeure Event").

8.2. Response to Force Majeure. A Party whose performance is affected by a Force Majeure Event shall provide reasonable notice to the other Parties and shall make commercially reasonable efforts to minimize the impact of the Force Majeure Event on its performance.

8.3. Suspension Pending Force Majeure. The deadline by when a Party must perform an obligation under this agreement, other than payment of money, shall be postponed by the period of time by which the Party's ability to perform that obligation is materially prevented or interfered with by a force majeure event.

9. DEFAULT

9.1. Default and Cure. A "Default" under this Agreement shall occur if a Party fails to perform, in any material respect, any of its obligations set forth in this Agreement, and (a) such failure is not excused by any provision of this Agreement, and (b) such failure continues un-remedied for a period of twenty-eight (28) days following receipt of written notice from a nonbreaching Party. If the breach by its nature cannot be cured within twenty-eight (28) days and the breaching Party within that time has diligently commenced its cure, there shall be no Default as long as the Party diligently continues such cure to completion.

9.2. Remedies. Upon the occurrence of a Default, the non-breaching Party shall have the right, subject to the express limitations contained in this Agreement, to terminate this Agreement and to pursue any and all available legal or equitable remedies against the defaulting Party. The non-breaching Party may pursue such remedies simultaneously or consecutively, at its discretion.

10. MISCELLANEOUS

10.1. Compliance with Law. Each party shall observe and comply with all federal, state and local laws and regulations which may govern the obligations as herein specified.

10.2. Nondiscrimination. No party shall discriminate against any person because of race, gender, age, color, religion, ancestry, handicap, sexual orientation, sexual identity, gender identity, veteran status, national origin or any other protected class under the law.

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10.3. Governing Law. The provisions of this Agreement shall be construed, administered and enforced according to the laws of the Commonwealth of Massachusetts.

10.4. Licenses, Easements and Fees. Owner-Operator shall obtain all licenses, easements and permits required to conduct the activities pursuant to this Agreement and shall pay the costs of same. Owner-Operator shall be granted the right to use any and all existing easements granted to the Town in order for Owner-Operator to operate and service the Network.

10.5. Availability of Funds. The compensation provided by this Agreement is subject to the continued availability of the (MBI) grant funds. The Owner's-Operator's duty to provide construction services to extend the network shall terminate if MBI ceases to have the funds to pay the Owner-Operator.

10.6. Rights and Remedies. Each of the parties' rights and remedies provided in this Agreement are in addition to any other rights and remedies provided by law.

10.7. Modification, Waiver of Change. No modifications, waiver or change shall be made in the terms and conditions of this Agreement, except as may be mutually agreed upon in writing by all parties hereto.

10.8. Successors and Assigns. Except as specifically provided in this Agreement, no Party shall assign its rights and obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld, conditioned, or delayed. If a Party does not approve of an assignment requested in writing under this Section 10.8 within sixty (60) days of receipt of said request, the requested assignment will be deemed approved. Any denial of a written request for assignment shall be in writing and shall state the reasons for said denial. The Parties intend that this Agreement shall be binding on the Parties and their successors and permitted assigns.

10.9. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

10.10. Severability. In the event that any provision of this Agreement shall be deemed invalid, unreasonable, or unenforceable by any court of competent jurisdiction, such provision shall be stricken from the Agreement or modified so as to render it reasonable, and the remaining provisions of this Agreement or the modified provision as provided above, shall continue in full force and effect and be binding upon the parties so long as such remaining or modified provisions reflect the intent of the parties as of the date of this Agreement. Further, should this Agreement omit any statutory or regulatory requirements which would otherwise render this Agreement illegal, then this Agreement shall be deemed amended to the minimum extent necessary to comply with said statutes or regulations.

10.11 Rules of Construction. When the identity of the Parties hereto or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The headings of each paragraph are for information and convenience only and do not limit or construe the contents of any provision hereby. Any reference to trade terms herein shall be interchangeable to the extent substitution of the trade term with an updated and more appropriate trade term is justified and agreed to between the Parties.

10.12 Cooperation. Fiber Connect and Town acknowledge that, concurrently with the performance of the obligations under this Agreement, Fiber Connect has entered into a Grant Agreement with MBI. Town agrees not to impede or interfere with Fiber Connect's pursuit of the Grant Agreement. Town shall fully cooperate with Fiber Connect, its agents, its investors, and its designees to provide Fiber Connect with what it reasonably requests in order to comply with the Grant Agreement. Town shall take no action to impede or prevent Fiber Connect from exercising its rights under the Grant

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Agreement as quickly as is practicable. Town covenants and agrees not to make any intentional statement, oral or written, or to perform any intentional act or omission for the purpose of causing, or reasonably expected to cause, any harm to Fiber Connect's business, business relationships, operations, good will, reputation, or pursuit of exercising its rights under this Agreement or the Grant Agreement. If Town fails to comply with any written request from Fiber Connect to cooperate either under this Agreement or the Grant Agreement (including but not limited to a request to assign this agreement or a request for certification of work completed under the Grant Agreement) within sixty (60) days of written request by Fiber Connect ("Assignment Request"), it will be deemed approved by the Town without further action by either Fiber Connect or Town.

11. NOTICES

With the exception of Subscriber requests for Internet Services, changes to Internet Services, notices of outages, and other Subscriber related inquiries, all legal notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be (a) in writing, and (b) delivered to the applicable Party by facsimile transmission with confirmation of delivery, or electronic mail with confirmation of delivery by the applicable Party, or sent by overnight commercial delivery service or certified mail, return receipt requested at the Party's address listed below. Notice shall be deemed to have been given on the date of the transmission and receipt of facsimile or electronic mail transmissions, or the delivery date set forth in the records of the delivery service or on the return receipt.

OWNER-OPERATOR


Fiber Connect, LLC
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413-429-4109
Adam Chait, CEO
adam@bfcma.com
info@bfcma.com

TOWN OF MONTEREY

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Fax: (413) 528-9452
admin@montereyma.gov

IN WITNESS WHEREOF, each of the Parties has duly executed this Agreement as of the date first above written.

FIBER CONNECT, LLC

By: 
Adam Chait, its CEO, Duly Authorized

TOWN OF MONTEREY SELECTBOARD

By: 
Donald Coburn, Chairman


Steven Weisz, Member

John Weingold, Member

DSC
LW
AC

LIST OF ATTACHMENTS

Attachment

- A Town of Monterey Locations without Internet Service ("Unserved Area")
- B MBI Flexible Grant Program Requirements
- C Fiber Connect Specimen Subscriber Agreement and Rate Card
- D Fiber Connect Data Security and Privacy Policy

**Attachment A
Unserved Areas in Monterey**

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Road	Approx Miles	# Homes
River Road from #100 to the New Marlborough town line	0.15	3
Corashire Road from #56 to the New Marlborough town line	0.28	4
Brett Road	1.0	9
Swann Road	0.6	8
Fairview Road #46 to Main Road (RT23)	.5	3
Beartown Mountain Road from #126 to Great Barrington Border	2.8	23
Royal Hemlock Road	.6	3
Tyringham Road North of Heron Pond to Tyringham Border	0.7	1
Mt Hunger Road from #151 East to Route 23	1.7	16
Norwalk Estates	.44	9
Main Road (RT23) East of Hupi Road	.5	1
Sandisfield road from #74 to Sandisfield border	1.8	6
New Marlborough Road from #39 south to New Marlborough border	2.5	22
Wellman Road	.4	3
Gould Road	1.7	5
Harmon Road	.7	10
400 West Otis Tyringham Road	0.0	1
Brook Ln / West Rd / Pine St / North Rd / Lake Ave	.62	18
Laurel Banks Road	.28	15
Prescott Lane	.19	5
Sackman Way / Heberts Cove	.52	12
Camp Half Moon / Seven Arts / Tin Can Road	.42	9
Northeast Cove Road	.4	4
North Cove Road	.54	3
Pixley Rd (RT57) from RT23 to New Marlborough Border	1.78	28
Corashire Road from RT23 to #29	.31	3
River Road from RT23 to #49	.55	9
Blue Hill Road / Old Beartown Road	2.8	30

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Main Rd (RT23) from Fairview Rd to Great Barrington Border

3.23	71
28.01	334

Total

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Attachment B
Massachusetts Technology Collaborative/Massachusetts Broadband Institute
Payment in Arrears Policy for Certain Broadband Projects

For towns that seek to implement a broadband project with certain private providers*, the Commonwealth, through the Massachusetts Broadband Institute ("MBI"), will enter into a grant agreement with the Town to reimburse the Town for its expenses related to the project, up to the maximum amount of its allocation, based on the following conditions being met:

- The Town Counsel has submitted a letter to MBI certifying that the Town has complied with all procurement laws, and any other applicable laws and regulations required to implement the project.
- Fiber Connect is in compliance with the Last Mile Broadband Grant Agreement with MBI.
- The Town and provider certify, as appropriate, that:
 - There is no pending or contemplated litigation between the town and the provider;
 - There is no pending or contemplated arbitration between the town and the provider;
 - and
 - The provider has paid all subcontractors for all work performed on the project
- The Town and provider certify that at least 51% of all potential customers to be passed by the network have pre-subscribed to take broadband service and have paid a pre-subscription deposit.
- The Town and provider enter into a broadband services agreement with the provider to address the long-term relationship between the Town and the provider.
 - As a best practice, MBI strongly encourages the Town to insist on protections within this agreement to protect the public money invested in the contract and the customers' access to quality broadband service. For example, the Town could seek a performance bond from the provider for the operation of the network, pricing protections and schedules, guarantees concerning response time in the case of network outages or storm repairs and other similar provisions designed to ensure smooth, predictable, and reliable broadband service. The Town should seek the guidance of Town counsel and any other professionals it deems appropriate and necessary for the execution of this long-term agreement.

*The application of these conditions occurs in those situations where the town and the provider are entering into an agreement for the provision of broadband service wherein the Commonwealth is not a party to said agreement. In these situations, the town is responsible for every aspect of procurement and contracting. In these situations, the Commonwealth takes no position and makes no judgement about the decisions, understandings or agreements between the parties. As described in this document, the Commonwealth's financial contribution to the project will, as a matter of standing practice in these situations, be made after the project is complete.

PSC
 (Signature)
 AC

Attachment C
 Fiber Connect Specimen Subscriber Agreement and Rate Card



CUSTOMER AGREEMENT

This Customer Agreement ("**Agreement**") is entered into this ____ day of _____, _____, by and between the parties described below.

PARTIES TO THIS AGREEMENT:

Network: Fiber Connect, LLC ("**Network**")

Customer: _____ ("**Customer**")

Customer Information: _____

Property Address: _____

Telephone: _____

Secondary Telephone: _____

E-mail Address: _____

Billing Information (if different):

Billing Name: _____

Billing Address: _____

Billing Telephone: _____

Billing E-mail Address: _____

AGREEMENT

The parties, Intending to be legally bound, hereby agree as follows:

- I ("**Customer**") understand that this Agreement allows the Network's infrastructure to be installed on my property, and is also an Agreement for telecommunications and/or other services.
 Customer Initials _____

SERVICE OFFERINGS

- By signing this Agreement, when Network and its service offerings are available at my property, I agree to purchase the Service Package initiated by me below.

SERVICE DESCRIPTION	QTY	NRC	MRC	TOTAL
Residential Internet Service up to 1000x250 mbps				
Business Internet Service up to 1000x400 mbps				
Digital Telephone Service (Plain Old Telephone Service)				
Managed WIFI Service 802.11 b/g/n/ac with monitoring				
Uninterruptable Power Supply Service with monitoring and replacement				
Sign up and Installation				
Promotional Discount				
			Setup Paid Upfront	
			Setup Financed	
			One Time Cost at Signing	
			Monthly Cost	

In the event the Network, for whatever reason, never reaches my property within 12 months of signing date, then I shall have no further liability at any time to Fiber Connect, and I shall hold Fiber Connect harmless from any representations that have been made to me regarding the availability of the Network. Setup Fee(s) paid will be refunded in full.
 Customer Initials _____

PAYMENT OPTIONS

- I understand this is a contract with Fiber Connect, and by signing this, I agree to pay Fiber Connect, or its lawful designee, a Connection Fee ("**Connection Fee**") in one payment of _____ at time of signing agreement and payments of _____ per month over _____ years (____ months) ("**Term**"). This represents an annual interest rate of _____ % for setup fee financing. The outstanding principal of which can be paid off at anytime without any pre-payment penalties.
 Customer Initials _____

4828-8770-3099

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- Preferred method of payment. I understand that the Network's preferred method of payment is by e-pay. I agree to utilize e-pay to make my payments under this agreement. I further understand and agree that if I fail to use e-pay, and use some other method of payment, I will receive a surcharge of \$5.
Customer Initials _____
- Early termination. I understand and agree that the Network will be installing a significant quantity of infrastructure materials in order for me to have the services hereunder. In the event I terminate early for any reason with the exception of moving outside of Fiber Connect's service area, I agree to an early termination penalty equal to 90% of the remaining service agreement term, which I must pay as a material condition of being relieved of my contractual obligation hereunder.
Customer Initials _____
- I understand and agree that my use of the Network's services will be fully in compliance with the Network's Privacy, Acceptable Use, and other policies which the Network may adopt from time to time. Such policies may be found at www.bfcma.com/legal. In the event the Network does not reach my property, then I shall have no further liability to Fiber Connect and Fiber Connect shall have no liability to me whatsoever.
Customer Initials _____
- In order for me to facilitate the provision of services to my property, I will, simultaneous to the signing of this Agreement, enter into a Property Access License with the Network substantially in the form attached hereto as **Appendix A**.
Customer Initials _____
- I understand that Fiber Connect may be constructing new fiber facilities to service my premise. If new facilities are required then service may not be ready to be "turned up" or activated at the time of the premise equipment installation. Billing cycle will not begin until service is actually "lit" at the premise ONT.
Customer Initials _____
- I have read and agree with the New Service Installation Policy which can be found on the Fiber Connect website under the "Legal Policy and Documents" section located at <http://www.bfcma.com>.
Customer Initials _____
- Payment of services are paid on the first of the month and paid in advance of the service month. Upon initial service activation billing will be pro-rated beginning on the first full day service is made available for the remainder of the current month. Upon termination a credit will be issued minus any early termination fee due Fiber Connect.
Customer Initials _____
- I understand, Fiber Connect (FC) is providing a Fiber To The Premise broadband service with on premise fiber router of best use to 1Gbps. FC has no control or liability of speeds or connectivity beyond FC's network both upstream to the internet and downstream at the customer premise beyond FC's premise equipment. FC is not responsible for conditions that may affect WiFi on premise due to structural size, materials, radio interference, or otherwise. FC makes no warranties regarding signal strength or speeds over WiFi technologies within the premise.
Customer Initials _____

MISCELLANEOUS

- This Agreement (and the documents to be executed pursuant to this Agreement) constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable or unenforceable, such void, voidable or unenforceable term or provision shall not affect any other term or provision of this Agreement. This Agreement shall be governed by the laws of the State of Massachusetts without regard to choice of law principles. For all litigation which may arise with respect to this Agreement, the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction and venue (and waive any claim of *forum nonconveniens*) of the United States Federal District Court for the District of Massachusetts if in federal court or Massachusetts if in state court. For judgment collection purposes only, the parties further consent to the jurisdiction of any state court located within a district which encompasses assets of a party against which a judgment has been rendered for the enforcement of such judgment or award against the assets of such party.
Customer Initials _____

IN WITNESS WHEREOF, the parties have executed this Contracted Utility Enhancement Agreement as of the date first written above.

CUSTOMER:

[Signature] [Printed name]

[Signature] [Printed name]

NETWORK:

Adam Chait Adam Chait (CEO)
[Signature] [Printed name]

Sign and Return with Setup Payment To:

FIBER CONNECT, LLC
PO BOX 764
MONTEREY, MA 01245

OR EMAIL WITH SCANNED CHECK (BOTH SIDES) SALES@BFCMA.COM

4828-8770-3099



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Property Access License

1. **Grant of License.** Subscriber understands and agrees that delivery of services under that certain Customer Agreement between Subscriber and Fiber Connect, LLC (the "Network") requires the Network to connect its infrastructure to the premises. Subscriber grants the Network a non-exclusive license to access the premises to install and maintain fiber optic cable(s), electronic access portal(s), and any other equipment, to the premises, including rights of ingress and egress for maintenance purposes ("License"). This License shall be irrevocable with respect to the outdoor premises and shall extend throughout the term of this Agreement or until the date the Network's equipment is removed, whichever is later, with respect to the indoor premises. This License shall run with the land and, at the Network's sole discretion may be recorded with the county recorder. Unless otherwise provided by law, the fiber optic cable(s), electronic access portal(s), and any other equipment shall remain the Network's property, as applicable. If Subscriber is not the owner of the premises, Subscriber represents and warrants that the owner has granted Subscriber authority to grant this License.

2. **Damage Covenant.** Neither the owner(s), nor Subscriber or premises occupants shall damage the Network's infrastructure, including, but not limited to, fiber optic cable(s), electronic access portal(s), and any other equipment. Subscriber shall be jointly and severally liable to the Network directly, and the Network may obtain reimbursement directly from Subscriber, for such damages, including enforcement and court costs, and attorney fees. This provision shall survive the termination of any such agreement.

3. **Temporary Drops.** If, for any reason, a permanent connection to the premises cannot be made, a temporary drop may be used to install the Network's infrastructure to the premises. Subscriber and owner(s) shall hold the Network harmless from any and all claims arising from or related to injuries or damages, of whatever kind or nature, caused by such temporary drops.

4. **LIMITATION OF LIABILITY.** THE NETWORK'S LIABILITY TO SUBSCRIBER, OWNER(S) AND/OR USERS OF THE NETWORK'S INFRASTRUCTURE AT THE PREMISES (COLLECTIVELY, "NETWORK USERS") ON ACCOUNT OF ANY ACT OR OMISSION RELATED TO SUCH USE OF THE NETWORK SHALL BE LIMITED TO ACTUAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, OR BODILY INJURY OR DEATH PROXIMATELY CAUSED BY THE NETWORK'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE. EXCEPT FOR SUCH DAMAGES, NETWORK USERS WILL NOT BE ENTITLED TO ANY OTHER DAMAGES FROM NETWORK, WHETHER INDIRECT, SPECIAL, CONSEQUENTIAL, RELIANCE, OR PUNITIVE DAMAGES, OR OTHER ECONOMIC LOSSES, REGARDLESS OF THE FORM OF ACTION. EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 4, THE NETWORK AND EACH OF ITS EMPLOYEES, OFFICERS, AGENTS AND CONTRACTORS WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, NETWORK USERS' ELECTRONIC HARDWARE OR SOFTWARE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA. SUBSCRIBER ASSUMES FULL RESPONSIBILITY FOR EDUCATING NETWORK USERS REGARDING VIRUSES, TROJAN HORSES, HACKER ATTACKS, ETC.. SUBSCRIBER AND OWNER(S) AGREE TO HOLD THE NETWORK HARMLESS FROM ALL CLAIMS PROXIMATELY CAUSED BY A NETWORK USER'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE. EXCEPT FOR SUCH DAMAGES, NETWORK WILL NOT BE ENTITLED TO ANY OTHER DAMAGES FROM SUBSCRIBER, INCLUDING INDIRECT, SPECIAL, CONSEQUENTIAL, RELIANCE OR PUNITIVE DAMAGES OR OTHER ECONOMIC LOSSES, REGARDLESS OF THE FORM OF ACTION.

This License is specific and proprietary to Fiber Connect. It is not to be modified without prior written consent of Fiber Connect. For any legal questions please contact Fiber Connect at 413.429.4109

SIGNED THIS ____ day of _____, 20__.

Property Owner



Fiber Connect, LLC

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Attachment D
Fiber Connect Data Security and Privacy Policy

**FIBER CONNECT
PRIVACY POLICY**

Effective: December 1, 2016

1. Legal Agreement. Please read this Privacy Policy ("Privacy Policy") carefully. Your registration at and use of www.bfcma.com ("Website") for services and information (the "Services") offered by Fiber Connect, LLC ("Fiber Connect") on the Website, and/or your use of any other Services provided by Fiber Connect, create a binding, legal agreement between Fiber Connect and you ("you" or "your"). This Privacy Policy is a material component of the Agreement and governs Fiber Connect's collection, use and/or sharing of any information you provide to Fiber Connect in or about your use of the Website and/or the Services. This Privacy Policy further governs Fiber Connect's collection, use and/or sharing of information you provide Fiber Connect in creating an account on the Website, which may include, without limitation, information such as your name, e-mail address, physical address, phone number, cell phone number ("Personal Information"), credit card information ("Credit Card Information"), social security number, business financial information of any kind or nature, description of business plan or opportunity of any kind or nature, and any other personally identifying information related to you and/or your business. ("Sensitive Information"). If you choose to accept this Privacy Policy, you must do so as written, without modification. If you do not accept this Privacy Policy you will not be allowed to receive the Services. By using the Website, you openly and affirmatively acknowledge and agree you have read and you accept this Privacy Policy. **IF YOU DO NOT AGREE TO THIS PRIVACY POLICY DO NOT USE THE WEBSITE.**

2. Information Collected by Fiber Connect. Fiber Connect, from time to time, may engage trusted, industry-standard third party providers to provide financial account aggregation services. Your Personal Information may be transmitted to such third party providers and securely stored on their servers. Fiber Connect is not responsible for any third party provider's actions or inactions. You authorize Fiber Connect to provide such third party providers with your Personal Information.

You may use the Website without creating an account. Even without an account, Fiber Connect may collect Personal Information about your use of the Website. This may include information about any Internet protocol address you use to access the Website and/or your activity or patterns of activity using the Website. You authorize Fiber Connect to use cookies, or other small text files stored on your computer, to store data about your visits and you authorize Fiber Connect to access such data.

3. Removal of Your Personal Information. If you provide Fiber Connect written notice of your request to remove your Personal Information, we will endeavor to remove it as quickly as possible. You understand that any such removal is only intended to result in the removal of your Personal Information from Fiber Connect's own records, but will not result in, nor will your request create an expectation of, any removal of any information about you from the Available Information.

4822-7558-1757
www.bfcma.com/legal_privacyPolicy_1216.php

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4. **Other Information.** Fiber Connect may store, and you authorize Fiber Connect to store, your Credit Card and/or Sensitive Information solely for its purposes. Fiber Connect will not share your Credit Card and/or Sensitive Information for any purposes, unless Fiber Connect first obtains your prior written consent to do so.

5. **Aggregate Information.** Notwithstanding anything in this Privacy Policy to the contrary, Fiber Connect may use any information you provide, when aggregated with others' information, to provide trend analysis of market segments, business growth patterns, or any other trending information. In such event, Fiber Connect will not use any personally-identifying information you have provided in any manner which will divulge you or your business in such trending analysis. Further, Fiber Connect may use your information to provide case studies, provided you cannot and will not be able to be identified in such event.

6. **Use and Sharing of Your Personal Information.**

a) Fiber Connect may use your Personal Information to create and maintain your account, to personalize your experience, and to send periodic e-mail communications relating to the Service, such as purchase receipts, account confirmations, and customer service correspondence. Fiber Connect may provide your e-mail address to a third party service solely for the purpose of marketing third party services to you, delivering e-mail communications and preventing fraudulent transactions, however, Fiber Connect will first endeavor to obtain your authorizing signature to do so before transmitting your information.

b) You understand and agree Fiber Connect may monitor usage on the Website and the Services and may share your use of the Website and Services with law enforcement agencies and officials in response to inquiries or if Fiber Connect has reason to believe your use of the Website and Services is for an unlawful purpose. Fiber Connect may share your use of the Website and/or Services as required by law, a court order, a subpoena or other court proceedings, or as Fiber Connect determines is necessary or advisable to protect its interests.

c) Fiber Connect may use your Personal Information to improve the Website and the Services. Fiber Connect may share Internet protocol addresses used to access the Website with designated third parties to prevent and prevent and detect fraud. Fiber Connect may use services and technologies provided by other companies to assist Fiber Connect in understanding your use of the Website. Your Personal Information may be available to such third parties to the extent that their technology collects such information for Fiber Connect's use. Fiber Connect reserves the right to transfer your Personal Information to any successor in interest to all or some portion of the Fiber Connect business.

7. **Children's Privacy.**

a) The Website and the Services are directed to people who are at least 18 years old. Fiber Connect does not knowingly collect Personal Information from anyone under the age of 18. If you are aware that Fiber Connect has collected Personal Information from someone under the age of 18, please alert Fiber Connect at www.bfcma.com/legal_under18.php and the information will be removed from our system as soon as reasonably possible.

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b) Fiber Connect does not knowingly aggregate or provide information about people under the age of 18. You are only authorized to use the Website and the Service, or to provide Fiber Connect your information if you are at least 18 years old.

8. **Contacting Fiber Connect.** If you have any questions regarding this Privacy Policy, please contact us according to the manner designated for notices in the Agreement.

9. **Changes to this Privacy Policy.** Fiber Connect may change this Privacy Policy from time to time in its discretion. Privacy Policy changes will be posted on the Website and become effective as of the time of change.

4822-7558-1757
www.bfcma.com/legal_privacyPolicy_1216.php

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**Attachment E
Town of Monterey Locations Excluded from Agreement**

The following locations are specifically excluded from the 100% Coverage requirement:

Road	Approx Miles	# Homes
River Road from #100 to the New Marlborough town line	0.15	3
Corashire Road from #56 to the New Marlborough town line	0.28	4
Tyringham Road North of Heron Pond to Tyringham Border	0.7	1
400 West Otis Tyringham Road	0.0	1
Total	1.13	9



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SUBSCRIBER AGREEMENT

This Subscriber Agreement ("**Agreement**") is entered into this 22nd day of December, 2020, by and between the parties described below.

PARTIES TO THIS AGREEMENT:

Network: Fiber Connect, LLC ("**Network**")

Subscriber: Town Beach ("**Subscriber**")

Subscriber Information: 78 Tyringham Road
01245
Telephone: 413.528.1443
Secondary Telephone: admin@montereyma.gov

Billing Information (if different):
Billing Name: Town Beach (Town Monterey)
Billing Address: 435 Main Road
Billing Telephone: _____
E-mail Address: admin@montereyma.gov

AGREEMENT

The parties, intending to be legally bound, hereby agree as follows:

1. *Network Installation:* I ("**Subscriber**") understand that this Agreement allows the Network's infrastructure to be installed on my property, and is also an Agreement for telecommunications and/or other services. Setup charge is due at time of Agreement execution.

****Subscriber Initials** [Signature]

2. *Service Offerings:* By signing this Agreement, when Network and its service offerings are available at my property, I agree to purchase the Service Package initialed by me below. All data services are best use and does not guarantee minimum data rates.

****Subscriber Initials** [Signature]

SERVICE DESCRIPTION	QTY	NRC	MRC	TOTAL
Business Internet Service, best use to 1Gbps x 500Mbps, advanced SLA	1		\$ 0.00	\$ 0.00
Managed WiFi Service 802.11 b/g/n/ac with monitoring	1	\$ 0.00	\$ 0.00	\$ 0.00
Setup Paid Upfront		\$ -0.00		
Setup Financed		\$ -0.00		\$ 0.00
One Time Cost at Signing		\$ 0.00		
Monthly Cost				\$ 0.00

QTY = Quantity; NRC = Non Recurring Charge; MRC = Monthly Recurring Charge; Taxes and Fees may apply to some services.

3. *Network Availability:* In the event the Network, for whatever reason, never reaches my property within 12 months of signing date, then I shall have no further liability at any time to Fiber Connect, and I shall hold Fiber Connect harmless from any representations that have been made to me regarding the availability of the Network. Upon request, any setup fee(s) paid will be refunded in full without interest, less any outstanding account balance.

****Subscriber Initials** [Signature]

4. *Agreement Financials:* I understand this is a contract with Fiber Connect, and by signing this, I agree to pay Fiber Connect, or its lawful designee, a Connection Fee ("**Connection Fee**") in one payment of \$ 0.00 at time of signing agreement and payments of \$ 0.00 per month over 10.00 years (120 months) ("**Term**"). This represents an annual interest rate of 0 % for setup fee financing. The outstanding principal of which can be paid off at anytime without any pre-payment penalties.

****Subscriber Initials** [Signature]

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5. *Method of Payment:* I understand that the Network's preferred method of payment is by auto-pay. I agree to utilize auto-pay to make my payments under this agreement. I further understand and agree that if I fail to use auto-pay (credit card or direct checking withdrawal), and use some other method of payment, I will receive a monthly administration and processing fee of five dollars (\$5).
**Subscriber Initials DC
 6. *Dormancy Policy:* Fiber Connect does not offer subscribers a dormancy or vacation rate, nor does Fiber Connect allow seasonal suspension of a subscription.
**Subscriber Initials DC
 7. *Early Termination:* I understand and agree that the Network will be installing a significant quantity of infrastructure materials in order for me to have the services hereunder. In the event I terminate early for any reason with the exception of moving outside of Fiber Connects service area, I agree to an early termination penalty equal to 90% of the remaining service agreement term, which I must pay as a material condition of being relieved of my contractual obligation hereunder.
**Subscriber Initials DC
 8. *Right to Terminate Services:* Fiber Connect retains the right to terminate services for any reason with thirty (30) days written notice to the address on file. If termination of service is for reasons other than a violation of any conditions or policies in this agreement or published on our website, the penalty under "Early Termination" is waived.
**Subscriber Initials DC
 9. *Network Policies:* I understand and agree that my use of the Network's services will be fully in compliance with the Network's Privacy, Acceptable Use, and other policies which the Network may adopt from time to time. Such policies may be found at www.bfcma.com/legal In the event the Network does not reach my property, then I shall have no further liability to Fiber Connect and Fiber Connect shall have no liability to me whatsoever.
**Subscriber Initials DC
 10. *Property Access:* In order for me to facilitate the provision of services to my property, I will – if applicable, simultaneous to the signing of this Agreement, enter into a Property Access License with the Network substantially in the form attached hereto as **Appendix A**.
**Subscriber Initials DC
 11. *Fiber Facilities:* I understand that Fiber Connect may be constructing new fiber facilities to service my premise. If new facilities are required then service may not be ready to be "turned up" or activated at the time of the premise equipment installation. Billing cycle will not begin until service is actually "lit" at the premise ONT.
**Subscriber Initials DC
 12. *Installation Policy:* I have read and agree with the New Service Installation Policy which can be found on the Fiber Connect website under the "Legal Documents" section located at <http://www.bfcma.com>.
**Subscriber Initials DC
 13. *Payment:* Payment for services are paid on the first of the service month. Upon initial service activation billing will be pro-rated beginning on the first full day service is made available and for the remainder of the current month. Upon proper termination conditions service will terminate at the end of the currently billed month. Any financing balance will be due at the time of termination based on current amortization schedule.
**Subscriber Initials DC
 14. *Equipment Policy:* I understand, Fiber Connect is providing a Fiber To The Premise broadband service with on-premise fiber router of best use to speeds described in your selected offering. FC has no control or liability of speeds or connectivity beyond FC's network both upstream to the internet and downstream at the Subscriber premise beyond FC's premise equipment. **FC is not responsible for conditions that may effect WiFi on premise due to structural size, materials, radio interference, or otherwise. FC makes no warranties regarding signal strength or speeds over WiFi technologies within the premise.** FC can discuss further mechanisms to mitigate premise related issues if desired.
**Subscriber Initials DC
 15. *Late Fees:* Fiber Connect will assess a one time late charge of ten (10) dollars per incident. Additionally a late charge of one and a half percent (1.5%) monthly on any delinquent charge greater than seven (7) days.
**Subscriber Initials DC
 16. *Failed Payment Fees:* Fiber Connect may assess a charge of ten (10) dollars for any failed payment attempt.
**Subscriber Initials DC



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17. *Fiber Connect Agreement:* This Agreement (and the documents to be executed pursuant to this Agreement) constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable or unenforceable, such void, voidable or unenforceable term or provision shall not affect any other term or provision of this Agreement. This Agreement shall be governed by the laws of the State of Massachusetts without regard to choice of law principles. For all litigation which may arise with respect to this Agreement, the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction and venue (and waive any claim of *forum nonconveniens*) of the United States Federal District Court for the District of Massachusetts if in federal court or Massachusetts if in state court. For judgment collection purposes only, the parties further consent to the jurisdiction of any state court located within a district which encompasses assets of a party against which a judgment has been rendered for the enforcement of such judgment or award against the assets of such party.

****Subscriber Initials** JSE

18. *Corrections / Changes:* This Agreement may not be altered in any manner. Any changes, alterations, or corrections must be done by Fiber Connect. Any handwritten alterations will void this agreement. To request alterations please email sales@bfcma.com or call 413.429.4109

****Subscriber Initials** J

19. *Other Documents and Policies:* Fiber Connect maintains additional documents and policies online at <https://www.fiberconnect.website/fiber-connect-legal-documents>. Customer understands these policies and that they may be updated from time to time. Notification of any policy changes will be done via email.

****Subscriber Initials** DJ

IN WITNESS WHEREOF, the parties have executed this Contracted Utility Enhancement Agreement as of the date first written above.

SUBSCRIBER: Tony Monterey

By [Signature] Donald S. Colborn
[Signature] [Printed name]

NETWORK:

Adam Chait (CEO)

 [Signature] Adam Chait
[Signature] [Printed name]

Sign and Return with Setup Payment To:

FIBER CONNECT, LLC
PO BOX 764
MONTEREY, MA 01245

4828-8770-3099
S:20190816204700
1807::1608663319::SA:3

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Property Access License

1. Grant of License. Subscriber understands and agrees that delivery of services under that certain Subscriber Agreement between Subscriber and Fiber Connect, LLC (the "Network") requires the Network to connect its infrastructure to the premises. Subscriber grants the Network a non-exclusive license to access the premises to install and maintain fiber optic cable(s), electronic access portal(s), and any other equipment, to the premises, including rights of ingress and egress for maintenance purposes ("License"). This License shall be irrevocable with respect to the outdoor premises and shall extend throughout the term of this Agreement or until the date the Network's equipment is removed, whichever is later, with respect to the indoor premises. This License shall run with the land and, at the Network's sole discretion may be recorded with the county recorder. Unless otherwise provided by law, the fiber optic cable(s), electronic access portal(s), and any other equipment shall remain the Network's property, as applicable. If Subscriber is not the owner of the premises, Subscriber represents and warrants that the owner has granted Subscriber authority to grant this License.

2. Damage Covenant. Neither the owner(s), nor Subscriber or premises occupants shall damage the Network's infrastructure, including, but not limited to, fiber optic cable(s), electronic access portal(s), and any other equipment. Subscriber shall be jointly and severally liable to the Network directly, and the Network may obtain reimbursement directly from Subscriber, for such damages, including enforcement and court costs, and attorney fees. This provision shall survive the termination of any such agreement.

3. Temporary Drops. If, for any reason, a permanent connection to the premises cannot be made, a temporary drop may be used to install the Network's infrastructure to the premises. Subscriber and owner(s) shall hold the Network harmless from any and all claims arising from or related to injuries or damages, of whatever kind or nature, caused by such temporary drops.

4. LIMITATION OF LIABILITY. THE NETWORK'S LIABILITY TO SUBSCRIBER, OWNER(S) AND/OR USERS OF THE NETWORK'S INFRASTRUCTURE AT THE PREMISES (COLLECTIVELY, "NETWORK USERS") ON ACCOUNT OF ANY ACT OR OMISSION RELATED TO SUCH USE OF THE NETWORK SHALL BE LIMITED TO ACTUAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, OR BODILY INJURY OR DEATH PROXIMATELY CAUSED BY THE NETWORK'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE. EXCEPT FOR SUCH DAMAGES, NETWORK USERS WILL NOT BE ENTITLED TO ANY OTHER DAMAGES FROM NETWORK, WHETHER INDIRECT, SPECIAL, CONSEQUENTIAL, RELIANCE, OR PUNITIVE DAMAGES, OR OTHER ECONOMIC LOSSES, REGARDLESS OF THE FORM OF ACTION. EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 4, THE NETWORK AND EACH OF ITS EMPLOYEES, OFFICERS, AGENTS AND CONTRACTORS WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, NETWORK USERS' ELECTRONIC HARDWARE OR SOFTWARE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA. SUBSCRIBER ASSUMES FULL RESPONSIBILITY FOR EDUCATING NETWORK USERS REGARDING VIRUSES, TROJAN HORSES, HACKER ATTACKS, ETC.. SUBSCRIBER AND OWNER(S) AGREE TO HOLD THE NETWORK HARMLESS FROM ALL CLAIMS PROXIMATELY CAUSED BY A NETWORK USER'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE. EXCEPT FOR SUCH DAMAGES, NETWORK WILL NOT BE ENTITLED TO ANY OTHER DAMAGES FROM SUBSCRIBER, INCLUDING INDIRECT, SPECIAL, CONSEQUENTIAL, RELIANCE OR PUNITIVE DAMAGES OR OTHER ECONOMIC LOSSES, REGARDLESS OF THE FORM OF ACTION.

This License is specific and proprietary to Fiber Connect. It is not to be modified without prior written consent of Fiber Connect. For any legal questions please contact Fiber Connect at 413.429.4109

SIGNED THIS 22nd day of December, 2020.



Property Owner / Landlord

Renter

Fiber Connect, LLC

25C
Sym
AE


COVID-19 RELEASE OF LIABILITY

On March 23, 2020, Governor Charlie Baker issued COVID-19 Order No. 13, ordering the closing of all non-essential businesses in the Commonwealth and imposing certain other restrictions. Cable service providers such as Fiber Connect LLC are considered to be essential businesses within the terms of the order.

The safety of our customers is paramount, and we are taking the following steps to reduce the risk of transmitting the coronavirus: See Exhibit A. Despite the steps we are taking, we cannot guarantee that our employees are non-contagious and free from the virus.

Prior to our technicians entering your home or office, we will need you to carefully review and sign this document stating that you understand the risks of virus transmission and are still voluntarily choosing to proceed. If you do not wish to sign this document, our technicians will not enter your home or office.

I, Town Monterey, understand that Fiber Connect LLC cannot guarantee that its technicians are not infected with the novel coronavirus that causes COVID-19 (the "Virus") or that they are not contagious. I understand that by inviting a technician into my home or office, I am voluntarily assuming the risk that I will become infected with the Virus. I am also voluntarily assuming the risk that other members of my household or employees of this office will become infected. **I hereby release and hold harmless Fiber Connect LLC from any and all liability associated with the transmission of the Virus and any damages resulting therefrom.**

Town Monterey 
[INSERT NAME]

Date: 12/29/2020, 2020

13\0351\COVID-19 release


BC
SW
AC

EXHIBIT A

When work inside a premise is required for either an install or repair, the premise owner or their representative must:

- Prop open all necessary doors such as the entrance to the premise and door(s) to room(s) where work will be done.
- All persons inside the premise are asked to either remain 15 feet away from the crew member(s), or be in another room while work is being done.
- The crew member(s) may ask the premise owner or representative to move furniture or other obstacles while still maintaining the required 15 foot distance.

Any failure of the part of the premise owner or representative to respect this policy will result in immediate termination of the install or repair.

Town Monterey 
 [INSERT NAME]

Date: 12/29, 2020